08/782590

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/782,590	01/13/97	ROSE	S 43/24

HM22/0816

JOHN Q MCQUILLAN
261 MADISON AVENUE
12TH FLOOR
NEW YORK NY 10016-2391

EXAMINER
UNGAR, S

ART UNIT	PAPER NUMBER
1642	1642

DATE MAILED: 08/16/99

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☑ THE PERIOD FOR RESPONSE:

a) ☐ is extended to run _____ or continues to run _____ from the date of the final rejection

b) ☑ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition , and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☑ Applicant's response to the final rejection, filed *May 25, 1999* has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☑ The proposed amendments to the claim and /or specification will not be entered and the final rejection stands because:

   a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.

   b. ☑ They raise new issues that would require further consideration and/or search. (See Note).

   c. ☑ They raise the issue of new matter. (See Note).

   d. ☑ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

   e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

   NOTE: *Raise the issue of new statement of 112 2nd proposed in Paper #10, section d(k) Amendment of claim 71 to recite "molecule" broadens the scope + requires added search. The phrase "to move by diffusion or convecting flow" is not found in claim 77 in paper #14 + is not shown as an amendment in Paper #17 but would require added search and consideration as a new issue as would claims 78+ amended claim 77 ...*

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims. *for the same reasons, as written there.*

3. ☑ Upon the filing an appeal, the proposed amendment ☐ will be entered ☑ will not be entered and the status of the claims will *claims* be as follows: *are drawn to new matter, not supported in the spec, or claims as originally filed*

   Claims allowed: _____None_____
   Claims objected to: _____69_____
   Claims rejected: _____69-83_____

   However;
   ☑ Applicant's response has overcome the following rejection(s): *entered Rejection of Claims 69 under 35 USC* *If the amendment to the claims were to be entered Rejection of Claims 69 under 35 USC 112 para would be withdrawn as drawn to Rejection in Paper 10, Sections 6(J), 6(K), 6(L) + objection to claim would be withdrawn*

4. ☑ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because *as would be the rejection of claims 69.* *See attached*

5. ☑ The affidavit or exhibit will not be considered because applicant has not shown good and sufficent reasons why it was not earlier presented. *83 Und 35 USC 112, first paragraph in Paper #15, Section 11, pages 9-10*

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner

☐ Other

PAULA K. HUTZELL
SUPERVISORY PATENT EXAMINER